

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILE

05 APR 25 AM 11:11

ROBERT R. DI GIULIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

KEVIN MILLEN,

Plaintiff,

vs.

WENDY'S RESTAURANT,

Defendants.

X
X
X
X
X
X
X
X
X
X
X

No. 05-2070-M1/An

ORDER DENYING LEAVE TO PROCEED IN FORMA PAUPERIS
AND
ORDER DIRECTING PLAINTIFF TO PAY THE CIVIL FILING FEE

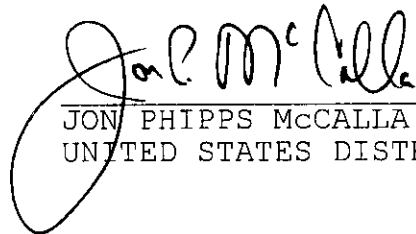
Plaintiff Kevin Millen filed a pro se complaint on the form used for commencing actions pursuant to 42 U.S.C. § 1983 on January 27, 2005, along with a motion seeking leave to proceed in forma pauperis.

Federal law provides that the "clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$150." 28 U.S.C. § 1914(a). To ensure access to the courts, however, 28 U.S.C. § 1915(a) permits an indigent plaintiff to avoid payment of filing fees by filing an in forma pauperis affidavit. Under that section, the Court must conduct a satisfactory inquiry into the plaintiff's ability to pay the filing fee and prosecute the lawsuit. A plaintiff seeking in forma pauperis standing must respond fully to the questions on the

Court's in forma pauperis form and execute the affidavit in compliance with the certification requirements contained in 28 U.S.C. § 1746. See, e.g., Reynolds v. Federal Bur. of Prisons, 30 Fed. Appx. 574 (6th Cir. Mar. 11, 2002); Brogue v. Fort Knox Fed. Credit Union, No. 86-1896, 1997 WL 242043 (6th Cir. May 8, 1997).

As the plaintiff's motion to proceed in forma pauperis contains no information concerning his monthly income, assets, and financial obligations, the Court has no basis for concluding that he is indigent and unable to pay the filing fee or to give security therefor. Accordingly, the motion to proceed in forma pauperis is DENIED. The plaintiff is ORDERED, within thirty (30) days of the date of entry of this order, to pay the \$150 civil filing fee. Failure to timely comply with this order will result in dismissal of this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 22 day of April, 2005.


JON PHIPPS McCALLA
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 3 in case 2:05-CV-02070 was distributed by fax, mail, or direct printing on April 25, 2005 to the parties listed.

Kevin Millen
4104 Stillwood Dr.
Memphis, TN 38128

Honorable Jon McCalla
US DISTRICT COURT